

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on March 10, 2005 at 8:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Mike Cooney, Chairman (D)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. John Brueggeman (R)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Lane L. Larson (D)
Sen. Greg Lind (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. Steven Gallus (D)
Sen. Don Ryan (D)
Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 224, 3/2/2005; SB 239, 3/2/2005;
SB 238, 3/2/2005; SB 428, 3/2/2005;
SB 267, 3/2/2005; SB 287, 3/2/2005

Executive Action:

HEARING ON SB 224**Opening Statement by Sponsor:**

SEN. JESSE LASLOVICH (D), SD 43, Anaconda, opened the hearing on **SB 224**, Allow off-site educational services. Legislative staff was asked to prepare an amendment that coordinates this bill with SB 359. SB 359, **SEN. ROBERT STORY'S** bill, was requested by the Office of Public Instruction (OPI) and revised the ANB funding for schools for students who are there for a minimum number of hours. Currently, there is full ANB for two hours; under **SEN. STORY'S** bill, it is four hours. The idea of SB 224 is for home-school students to participate in distance learning classes offered by school districts. If SB 359 passes, SB 224 will have no fiscal impact.

Proponents' Testimony:

Madalyn Quinlan, OPI, testified they supported SB 224 in its concept. She distributed the most recent fiscal note for SB 359.

EXHIBIT(fcs53a01)

As the state encourages more distance learning, and schools provide it, it is likely that more students that are currently home-schooled will enroll, at least part-time, at public schools. That is why there is a fiscal note associated with **SEN.**

LASLOVICH'S bill. They estimated the number of students who are not currently part of the ANB funding. SB 359 changes the thresholds and has a concept of quarter-time funding, half-time funding, and three-quarter-time funding. The interaction between SB 224 and SB 359 nets out the cost of SB 224; the fiscal note on SB 359 shows an anticipated savings to the state, once SB 359 is implemented. The bill passed the Senate 50-0, and she is confident that bill will continue to move forward.

Eric Feaver, MEA-MFT, advised SB 224 is not a new concept and was tried in 2001. It had a fiscal impact then of about the same fiscal impact it is presumed to have now. It may have no fiscal impact at all if SB 359 passes. He described SB 224 as "darn good" public school policy, and said it should pass whether it has a fiscal note or not.

Lance Melton, Montana School Boards Association, strongly supported SB 224. He noted that **SEN. RICK LAIBLE** had a similar bill, SB 13, and can provide expertise. He handed out written testimony.

EXHIBIT(fcs53a02)

Mr. Melton contended this bill has a number of opportunities for increased efficiencies that cannot really be addressed in the fiscal note.

Dave Puyear, Montana Rural Education Association (MREA), testified the Association stands in strong support of this measure. This measure has dramatic and direct impacts for rural small schools across the state. The bill addresses the issues of reaching out to the disenfranchised and the inefficiencies of rural and small schools. This bill will help those schools come together with large schools. MREA and the Montana School Boards have come together to start a coalition to work underneath this bill and to implement a distance learning process this fall.

Geoff Feiss, Montana Telecommunications Association, testified he previously served on the Helena School Board. Distance learning and remote education have value in Montana, and there is a superior telecommunications infrastructure in Montana that is underutilized. Distance learning is feasible, and he sees it as an avenue to use the those assets and encourage distance learning.

Darrell Rud, School Administrators of Montana, stood in strong support of the bill. Schools in Montana and the population are changing dramatically. Money and resources need to go where the students are and where their needs are. This bill will provide quality distance learning to the students of Montana.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. COREY STAPLETON asked if there are any unintended consequences for the School for the Deaf and Blind in Great Falls. **Ms. Quinlan** did not see any impact on the School for the Deaf and Blind. They do not receive any ANB funding; they are an appropriation through the HB 2 process. She did not see how allowing schools to provide distance learning would encourage students to be drawn away from the School for the Deaf and Blind. They are there because they need the specialized services that institution can provide. **SEN. STAPLETON** thought that institution is in danger long-term; there are a lot of costs and relatively few children. Part of the mission of that school is to reach out to children with vision and hearing issues. It seemed to him it would be more difficult to get these children to go to the school. **Ms. Quinlan** thought it is possible, as more technologies are available to a student in their home district, that the

student and the family will stay in that district to benefit from those services. She thinks that is a larger market issue over time, and this bill may have some small impact on that.

SEN. BOB HAWKS observed that distance learning is part of the formula of quality education for a statewide delivery system. He asked **Mr. Melton** if this is being integrated into the definition of quality. **Mr. Melton** said the current definition in SB 152, as amended by the House Select Committee on Education Funding, specifically includes the distance learning technologies in part of that definition of quality. Across the entire state, including the largest communities, there are six people per square mile. He stressed the difficulty in developing a curriculum to deliver accredited education where there may only be ten students. Distance learning is properly in that definition in SB 152, because if they are to honor the state's geographic isolation and provide the quality education obligated under the Constitution, there has to be off-site learning opportunities to insure they can bridge the gap between the mandated curriculum, the standards under the No Child Left Behind Act, and the geographic isolation that the state faces.

SEN. KEITH BALES said he was interested in **Mr. Melton's** scenario where there was an instructor in a small school district and no longer enough students to justify that instructor. That instructor could be retained by offering remote classes with that instructor. He did not see anything in the bill whereby that school district that hired that instructor would get reimbursed. **Mr. Melton** said the Montana Schools E-Learning Consortium has a model that is built upon the premise that school districts will use the ANB money to provide services. There might be an unbelievable science teacher in a rural community whose K-12 population is dwindling. The district is in the position of trying to get the curriculum from somewhere else and letting this valuable teacher go or capitalizing on this person's expertise and offering it to larger communities and peer institutions across the state. A rural school that used to have ten children and now has five that can't justify continuing to employ that valued instructor may be able to if they can have that instructor provide an off-site curriculum that is offered through a consortium to other school districts throughout the state. **SEN. BALES** agreed and thought that was a fantastic idea. He wondered if there needs to be something in the bill. He asked how that school district pays the salary for that fantastic teacher that they would like to be able to keep. **Mr. Melton** advised that Yellowstone County has approximately 500 home school students. Billings and Broadus are in the same E-Learning Consortium. There is a course with eight spots available out of Broadus. It is likely there will be more spots available from a rural

community that is not maxed out on its student contact hours under the accreditation standards than in a larger community like Billings. This bill allows Billings to serve an off-site student thereby generating ANB. Billings then has the financial capacity to purchase the course from Broadus. Broadus generates the funding necessary to retain that teacher through the course fee, and Billings has the capacity. In that regard, the bill does create the financial capacity that will lead to that result.

SEN. BALES said this is a great tool for his area and asked **Mr. Puyear** how he envisioned getting this to rural areas in the middle of nowhere so it can be a tool for them. **Mr. Puyear** said the bill has great implications for those areas. There is a great telecommunication system infrastructure. This will involve internet-based services and there is the ability to provide the courses, the outlines, tests, and quizzes in an online technology environment with the internet, streaming video, etc. When it comes to the latest technologies that take a lot of band width, rural areas are sometimes in better shape than some of the other areas comparatively. They intend to use ITV and internet-based video across the state. There are a few trouble spots, but not very many.

{Tape: 1; Side: B}

SEN. RICK LAIBLE asked why the language on page 1, line 27-29, was eliminated. **Ms. Quinlan** advised this issue came up in the Senate Education Committee. The schools are already able to contract with another district for services. This did not give them any more than the bill itself would give them by authorizing distance learning. The second sentence was incorrect. **SEN. LAIBLE** thought this meant, for the ANB recovery for schools, schools can only go through another district and cannot go through a private provider. His concern was limiting the options for schools. **Ms. Quinlan** asserted they are not limiting the options for schools. Schools can currently contract with another district or a private provider for educational services. The student enrolls in a public school, and the public school makes arrangements with the provider. The only way E-funding will be generated is if the student is, in fact, enrolled in the district, the district is responsible for the services that student is receiving, and the district makes arrangements for those services. They did not want the provider to go directly to the student. **SEN. LAIBLE** said local school districts will still have the ability to provide educational services for their online students through any source that they deem appropriate that meets the education standards of the state. **Ms. Quinlan** said that is correct; the school district will have a say in those services. **SEN. LAIBLE** asked at what point a school district receives ANB

funding for an online student. **Ms. Quinlan** said this is exactly what they are trying to clarify in SB 359. Current law is built around the assumption that a student is physically present at a school site, and that is how the services are being delivered. Education in the 21st century does not look like that all the time. In SB 359, they have tried to anticipate the various scenarios where students are educated away from the main school site. SB 359 says the student who is enrolled for two hours, but less than four, would generate half-time funding. A student enrolled for four hours or more would generate full-time funding. **SEN. LAIBLE** said both bills have to pass. If SB 359 does not pass, they are stuck with the current formula. **Ms. Quinlan** advised, if only SB 224 passed, any student that was enrolled for more than one hour would generate half-time funding and for more than two hours would generate full-time funding. SB 224 and SB 359 complement each other; one provides the policy and the other relates the ANB funding to the new policy.

SEN. LAIBLE asked if the purpose of online studies was to provide the resources for rural schools who are having trouble getting highly qualified science teachers. **Mr. Melton** said the bill addresses both issues. A rural school that is unable to recruit or retain a foreign language teacher is going to be able to purchase that course from a larger community that will generally have a broader curriculum. The rural community with the good teacher would have a financially viable way to retain that instructor by subsidizing the cost of that employee. A large number of accreditation violations are based on mis-assigned teachers. **SEN. LAIBLE** asked if there will be a price set on this, or will this be a negotiation between two school districts. **Mr. Melton** indicated they are costing out a per seat basis. They are in part referencing the successful pilot program implemented by **SEN. LAIBLE** as a good guideline as to what the estimated costs are. There will be a twenty to twenty-two student threshold. They are looking at the accreditation standards in terms of courses that are required on a one-unit basis versus a half-unit course. The accreditation standards say there can only be 150 students under assignment in any given day by a teacher.

SEN. KEN HANSEN asked if the bill will cause more home schooling. **Mr. Melton** said there are about 3500 home school students, and that has remained constant over the years. There is the perception among the home school population that public schools are uninviting and unwilling to adapt to assist those students in any way. He thought it is important to be able to adapt and provide education in a more flexible environment. He did not think it will promote additional home schooling. Home school students who feel disconnected from their public schools currently may get re-connected. He thinks this bill fosters more

positive communication between those groups. **SEN. HANSEN** expressed concern about rural schools losing teachers due to home schooling. **Mr. Melton** did not believe there are as many home school issues in rural communities as exist in larger communities and this would not foster a dramatic increase.

CHAIRMAN COONEY asked **SEN. LASLOVICH** about the coordinating language between SB 224 and SB 359. **SEN. LASLOVICH** indicated that he asked **Connie Erickson, Legislative Services**, to prepare an amendment that would coordinate this bill with SB 359. The coordinating instruction may not be necessary. **CHAIRMAN COONEY** asked him to let the committee know what happens with that amendment.

SEN. LAIBLE asked how many students in the state are currently receiving online instruction and how the system is set up. **Ms. Quinlan** said they collect information on numbers of teachers who are serving as distance learning facilitators; she offered to get him that information. **SEN. LAIBLE** asked for a list of teachers and students and a recap of how the services are provided. He wondered if any districts were acquiring services from a private entity or out-of-state entities. **Ms. Quinlan** said the Board of Education adopted a rule that these distance learners providers need to register with the state; she did not think that information is ready to package.

Closing by Sponsor:

SEN. LASLOVICH indicated that every school district currently has the authority to contract with private entities. He said this is an important issue. If both bills pass, more students will be educated in Montana.

HEARING ON SB 239

{Tape: 1; Side: B; Approx. Time Counter: 22.3}

Opening Statement by Sponsor:

SEN. MIKE WHEAT (D), SD 32, opened the hearing on **SB 239**, Securities investor education fund.

EXHIBIT (fcs53a03)

Proponents' Testimony:

Karen Powell, State Auditor's Office, advised they presented the bill in the Senate Business and Labor Committee. Support for the bill included consumers; senior citizens; the securities lobby; law enforcement, including the Sheriffs and Peace officers Association; the County Attorney's Association; and the Police Protective Association. There were no opponents. SB 239 is funded with fees collected by the Department. They are paid by the securities industry, and this will not create any new fees or fee structure. They are asking that a small portion of the funds go to educating Montanans on protecting their retirement. The funding source could also be a portion of fines.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. GREG BARKUS asked if there is a fund in the state for educating people on choosing attorneys. **SEN. WHEAT** did not know if there is a fund, but there is a referral service through the State Bar. **SEN. BARKUS** asked if there is any fund for educating people on selecting Realtors. **SEN. WHEAT** said he did not know if there is or not. **SEN. BARKUS** inquired about the largest investment an average person in Montana would make. **SEN. WHEAT** indicated they provide 401K plans for employees in his office. As soon as they pass their probationary period, they are vested.

{Tape: 2; Side: A}

SEN. BARKUS asked **SEN. WHEAT** if he would agree that, for the average Montanan, the largest investment they make is their home, and then their pension account. **SEN. WHEAT** stated their most important investment is their home, if they can afford to buy one.

Closing by Sponsor:

SEN. WHEAT closed on the bill.

HEARING ON SB 238

{Tape: 2; Side: A; Approx. Time Counter: 0.7}

Opening Statement by Sponsor:

SEN. MIKE WHEAT (D), SD 32, opened the hearing on **SB 238**, Create insurance consumer protection fund. The bill diverts premium taxes before they go to the general fund.

Proponents' Testimony:

Alicia Pichette, State Auditor's Office, spoke in support of the bill. She read from written testimony. Proponents of the bill in committee included those mentioned by **Ms. Powell** in her testimony on SB 239.

EXHIBIT(fcs53a04)

Ed Eaton, AARP, stated support for the bill and presented written testimony.

EXHIBIT(fcs53a05)

Jim Kembel, Montana Police Protective Association, stood in support of the bill.

Opponents' Testimony:

Jacqueline Lenmark, American Insurance Association, American Council of Life Insurers, strongly opposed the bill and spoke on behalf of **Greg Thorson, State Farm Insurance; John Metropoulous and Roy Easton** on behalf of the **Farmers Insurance Group; Roger McQuinn, Insurance Agents of Montana; and Frank Cote, America's Health Insurance Plans and Farmers Union Mutual**. All of these companies and associations support the education of consumers. They cannot support the earmarking of premium tax revenue for this purpose; premium tax is the insurers contribution to the general fund. She emphasized that this premium tax is an "in lieu of" tax of 2.75% of the premiums written in Montana, which equates roughly to 20-25% corporate tax. It is the national policy of all of these associations that there should be no earmarking of that revenue. It should go to the general fund and then prioritized and directed along with all of the other valid objectives of this state. They would support an inclusion in the Department's regular budget to cover this cost. All of the companies and agencies she mentioned already participate, on a voluntary basis, in educating the public about insurance. They will participate with the Department, if requested, without need for legislation.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. DAN WEINBERG asked **Ms. Lenmark** about the opposition to earmarking. **Ms. Lenmark** said it is the position of the associations that all of the objectives of the state, whether they are related to insurance, the support of other governmental agencies, or any of the issues with the state's budget, should be looked at, and the premium tax should simply go into the general fund. The Legislature should make determinations about the use of those funds without regard to their source. **SEN. WEINBERG** asked if this is more of a philosophical argument, rather than a practical one. **Ms. Lenmark** it is absolutely a philosophically position, but it is also a practical one. They oppose using one industry to support one specific function. The committee would be carving off a sum of money for a specific purpose without looking at the other priorities they are bound to consider and make judgements about.

SEN. GREG LIND asked if **Ms. Lenmark** opposes all earmarking and if she opposes earmarking tobacco settlement money for treatment and prevention. **Ms. Lenmark** advised they oppose all earmarking. She does not represent health insurance companies and cannot take a position for them. She has not discussed that with **Mr. Cote** and did not know how he would respond to the question.

SEN. BALES asked **Ms. Pichette** about the Auditor's budget for consumer education and how it relates to SB 239. **Ms. Pichette** did not have the exact figure, because they do not have a specific area of their budget that is set aside for education to consumers. A grant from the Investor Protection Trust Fund last year allowed them to go into the communities for consumer education. The cost to the State Auditor's budget was minimal. She said she could get the budget numbers for travel, but they are not identified specifically for education on the insurance side. **SEN. BALES** inquired whether there is an educational pamphlet on insurance. **Ms. Pichette** indicated there are a number of publications that the Auditor's Office pays for out of its regular budget. There are rate comparisons and publications that help consumers choose insurance that best covers their needs. There are a number of publications that help insurance consumers get help from the State Auditor's Office. The problem is distribution; going out into the communities would be a great assist. **SEN. BALES** said since they are already creating these documents, he wondered if they intend to fund all of that through this special fund, or if this is separate. He wondered how they would distinguish between the two as to function and purpose. **Ms. Pichette** advised they would have a set-aside for consumer education. She did not think they would need to supplant the printing costs for existing printed materials. If the State Auditor's office had some extra consumer education dollars, they

would be able to provide information to the 115 Montanans who have been affected by the ChoicePoint to Exit Non-FCRA.

EXHIBIT(fcs53a06)

SEN. BALES expressed concern about having two separate funds. If there is a tight budget again, and there is a fund just for this, any other money that they might have for information development would be a logical thing to cut. He thought they might be doing themselves more harm than good. **Ms. Pichette** replied one thing to remember in the bill is that any unexpended funds will be returned to the general fund at the end of each fiscal year. They have talked about whether a sunset on this bill would be appropriate.

SEN. CAROL WILLIAMS asked **Ms. Lenmark** to clarify her position, and if they favor the program for people to be educated on these issues, as long as the funding does not come from their industry. **Ms. Lenmark** said they strongly support education and would willingly participate, even without legislation, if requested or invited to participate. It is a matter of not using insurance money for this specific purpose, but rather that the state prioritize this particular objective along with all other state objectives. **SEN. WILLIAMS** asked for an example of how the industry would contribute to provide a consumer education program. **Ms. Lenmark** advised, in the late 1990s, the Safety Culture Act was passed in the Worker's Compensation Division. One of the provisions was for insurers to participate in education of Montana workers and employers about the Act. Insurers came together, with the Department of Labor, to assist in putting on seminars and preparing materials for workers and employers. They have continued to work with the Department of Labor toward that goal on a voluntary basis. Under the administration of former **Insurance Commissioner Mark O'Keefe**, the Insurance Fraud Act was passed. **Commissioner O'Keefe** wanted to bring industry, law enforcement, and other affected individuals together to launch that Act. The industry voluntarily participated by providing materials, resources, and individuals who were knowledgeable about certain areas. If the Department had a desire to continue with the forums, she is confident that, if requested, her Associations and those companies would willingly participate in that effort.

SEN. LAIBLE asked **Ms. Pichette** if there was a proposal to increase the budget for consumer education. He wondered if there was a new proposal submitted to the Governor for their budget, or a decision package. **Ms. Pichette** said there was no additional request for funding for education. **SEN. LAIBLE** inquired, if this was such a high priority, why it was not included. He wondered

if it was included, and the Governor rejected it. **Ms. Pichette** indicated it was not included and rejected. It is a good idea to expand consumer education, and they have been able to get occasional grants. **SEN. LAIBLE** asked when she became aware of SB 238. **Ms. Pichette** indicated it was when **SEN. WHEAT** began discussing it with them early in January.

{Tape: 2; Side: B}

SEN. HAWKS questioned **Ms. Lenmark** about what is behind the philosophical argument. He wondered if it comes down to who controls the information that is dispensed. **Ms. Lenmark** replied, no. Her testimony would be the same regardless of the purpose for which the earmarking was proposed. The insurance industry has historically contributed the second or third largest sum of money to the general fund to support state projects. They believe that money should go to the general fund and the source should not be looked at any longer. The Legislature should make independent judgements about the highest priorities of the state for the use of those general funds. This has nothing to do with controlling the source of information. **SEN. HAWKS** asked, if the committee concluded this is their highest priority, if their objection falls. **Ms. Lenmark** said, it does not because it still would be earmarked. If they decide this is a high priority, if they want to add a line item into the State Auditor's budget in HB 2 for \$100,000, they would support that. Their position is the Legislature should look at that line item and then prioritize it along with all other projects they are attempting to fund in this Legislative session.

SEN. BALES asked about budget information for the agency, and **Ms. Pichette** indicated she provided one copy for the committee.

EXHIBIT (fcs53a07)

SEN. BARKUS inquired about the principal charge of the Auditor's Office related to insurance and securities. **Ms. Pichette** responded the Insurance Commissioner regulates the insurance transactions that take place in the state by licensing insurers and insurance producers and assuring that those insurance producers and insurers maintain good standing and provide the services that they say they will provide. They also provide services to the insurers and insurance producers by maintaining records for licenses and calculating the insurance producer's continuing education. They also do financial examination of insurers to assure they are financially able to meet their commitment. Their final charge is to the insurance consumer to assure they are receiving the product they believe they are receiving when they purchase it and that they are receiving it

from a qualified, licensed insurer and insurance producer. She could not speak for the securities department. **SEN. BARKUS** asked if that is their charge, if consumer protection should be included in their general budget and not supplemented in a bill. **Ms. Pichette** answered it is possible that they have not asked for enough consumer education funding in the past. They were wrapping up the senior citizens' tour about the time they were preparing their budget. **SEN. BARKUS** indicated **Ms. Powell** and **Ms. Pichette** do a great job.

CHAIRMAN COONEY expressed curiosity about the language that the Commissioner's name could not be put on any of the materials. He wondered if there is legislation that precludes other state officials from using their name on materials and wondered if they are micro-managing. **SEN. WHEAT** advised that **SEN. JOE BALLYEAT** was concerned that this not be used for political purposes. They wanted to make sure this was not a partisan effort. If money is spent for brochures, it would be from the Auditor's Office; when there is a change of administration, they do not have to be re-printed. **CHAIRMAN COONEY** thought if the Legislature is going to adopt this as a policy, it should be addressed globally. He thought they were picking on one office.

Closing by Sponsor:

SEN. WHEAT advised the bottom line is the education of the consumer. Both these bills were supported strongly by AARP and the Montana Senior Citizens. The genesis for these bills came out of the traveling tour that the Auditor's Office had with AARP and the Senior Citizens around the state. He heard about this through some folks in Bozeman who wanted to know if this would be continued. He thinks it is good public policy and encouraged the committee to pass these bills back onto the Senate floor so they can move forward.

HEARING ON SB 428

{Tape: 2; Side: B; Approx. Time Counter: 13.8}

Opening Statement by Sponsor:

SEN. COREY STAPLETON (R), SD 27, opened the hearing on **SB 428**, 211 - disaster, emergency, safety, health, human service referral phone service system. Former Governor Judy Martz appointed the 211 Coalition, and they have done an incredible job.

Proponents' Testimony:

Susie McIntyre, Voices of Hope, testified she is the Montana 211 Coordinator. She handed out information to the committee.

EXHIBIT(fcs53a08)

She observed it can be difficult for people to access services. 211 will provide a resource to connect people in need to the services that they need. In the United States, there are close to one million toll-free numbers for health and human services. 211 will also provide a cost savings to 911 and disaster response. In a disaster between forty and sixty percent of the calls to 911 are inappropriate; those calls can be sent to 211. The bill establishes a mechanism for oversight of 211. They have already started to implement 211 with a \$420,000 grant from the National Library of Medicine, which is building the database for 211. They are building on an existing infrastructure of a crisis line and information and referral line throughout the state. Those crisis and information lines already serve about eight counties and use over \$200,000 of local money to do that. All they are asking for in this legislation is to have a structure in order to efficiently and effectively implement 211 in the state.

Gayle Shirley, Department of Health and Human Services (DPHHS), rose in support of the bill. She read from written testimony.

EXHIBIT(fcs53a09)

Tim McCauley, United Way of Lewis and Clark County, served as the Chairman of the advisory committee that has been established for this program. He spoke on behalf of his fellow United Way directors across the state; they have been very involved in this process and are in support of this legislation. The Information Referral System is presently operating in four communities, and the one in Missoula County is a 211 designated number. The legislation calls for bringing all the stakeholders together for an efficient system that is capable of operating statewide. The University of Texas, Lyndon B. Johnson School of Public Affairs, reported on the cost benefit analysis of a three digit telephone system. Systems that work well are either centralized and run totally by the state or a hybrid model that works regionally with local involvement and a local delivery system, but with a centralized state structure that provides the coordination and oversight. The system that did not prove to be cost-effective was a decentralized system where every community does this on their own. An survey showed that 93% of the people were satisfied with the information they got from the 211 system and 97% would use the system again. Another benefit was people knew when they should not use 911.

Sherry Stevens Wulf, Executive Director, United Way Northwest Montana, testified she is involved with Help Net in her area, which has been in existence for 20 years. They are in the process of transition into 211.

{Tape: 3; Side: A}

Deb Matteucci, Montana Mental Health Association, spoke in support of SB 428. She is also a member of the 211 coalition. For people with mental illness, this is a valuable resource in terms of ease of access to services. She urged viewing the fiscal note as an investment. By approving and passing SB 428, there is an opportunity to leverage dollars and protect an invaluable state resource in the 211 number. This would also open the door to federal matching dollars. There are a lot of dollars already in place that can help put up the state side of the match.

Kristi Evans, Voices of Hope, testified they serve as one of the call centers. She presented written testimony from **Jim Morton**, director of the call center in Missoula.

EXHIBIT(fcs53a10)

Dan McGowan, Montana Disaster and Emergency Services, stressed the importance of a consistent system that is well documented during disasters and emergencies. He urged concurrence with the bill.

Anita Roessmann, Montana Advocacy Program, testified her organization serves people with disabilities. She thanked the sponsor and the coalition that drafted this bill. At the Montana Advocacy Program, they had to organize a unit in their office just to handle all of the calls asking for information. Most people want to advocate for themselves and just want information. They think the bill will result in a statewide database, help people help themselves, and prevent greater difficulties.

Jim Kembel, Montana Association of Chiefs of Police, said they receive a lot of these calls. This would give them a good place to make sure people are safe and taken care of.

Monique Lay, Montana Disaster and Emergency Services, presented the written testimony of **Paul Spengler, Lewis and Clark DES**, on behalf of the Association of Directors of Disaster and Emergency Services.

EXHIBIT(fcs53a11)

SEN. GREG LIND presented a letter from **Jean Curtiss, Missoula County Commissioner** in support of the bill.

EXHIBIT(fcs53a12)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. LAIBLE asked **Ms. Shirley** if the reason this program is housed at DPHHS is because the bulk of the calls are health related. **Ms. Shirley** said, that is correct. **SEN. LAIBLE** wondered if the 211 system being housed at that agency will result in a cost savings within the Department. **Ms. Shirley** indicated there are some potential cost savings to the Department. Within the Department there are 350 programs, and it is a challenge to figure out where to send callers. The Department has a number of hotlines that they operate, and some of them may become redundant if there is a 211 system in place. **SEN. LAIBLE** asked **SEN. STAPLETON** if those savings were taken into consideration in the fiscal note. **SEN. STAPLETON** said they were not. He signed the fiscal note, not only because he strongly endorses this idea, but the future years will be far more important.

SEN. TRUDY SCHMIDT asked **Ms. Shirley** if this group received several grants and federal money that is not reflected anywhere. **Ms. Shirley** advised the group has received grants; one of them was from the National Library of Medicine for over \$400,000. Those were not included in the fiscal note because the fiscal note was drafted by the Department, and the drafters were unaware of exactly what funding sources were already pursued. The fiscal note was focused on the impacts to the Department. **SEN. SCHMIDT** asked if that grant affects this fiscal note in any way. **Ms. Shirley** believed that the grant money that has been received so far was earmarked for things like the statewide database. The fiscal note addresses the administration within the Department. **SEN. SCHMIDT** asked about the federal money. **Ms. Shirley** did not think the group had yet received any federal money. The federal money she spoke of in her testimony is money that would be appropriated if the national 211 calling bill passes. She did not know, at this point, if that money would be earmarked for specific things or not. **SEN. SCHMIDT** asked about the federal special revenue in the fiscal note. **Ms. McIntyre** described that money as funding from the Department of Military Affairs to hire two temporary personnel in case of a major disaster and provide a

small amount of supplies. **SEN. SCHMIDT** asked which communities have the 211 number in place as a pilot. **Ms. Shirley** replied the Missoula Call Center is currently operating a 211 number for Missoula, Ravalli, and Mineral Counties. **SEN. SCHMIDT** asked if they are in full operation and covering all the social service agencies. **Ms. Shirley** responded they are not 24 hours a day, because they do not have the funding. Their database is solely from Missoula, Ravalli, and Mineral County. They are not completely integrated into disaster response on a state level. The statewide system will help people who are relocating.

SEN. WEINBERG observed that the title of the bill does not mention which Department, and he wondered if that is an oversight. **SEN. STAPLETON** said it is in the definitions, but the title can be fixed.

Closing by Sponsor:

SEN. STAPLETON advised that **Gordon Morris, Montana Association of Counties**, wanted to be on record as a proponent. **SEN. STAPLETON** described the program as a direct democracy type of idea. He hoped this could be looked at as a priority.

HEARING ON SB 267

{Tape: 3; Side: A; Approx. Time Counter: 20.7}

Opening Statement by Sponsor:

SEN. TRUDI SCHMIDT (D), SD 11, Great Falls, opened the hearing on **SB 267**, TANF low-income housing support; shelter allowance; grants to prevent homelessness. She sat on the Interim Committee for Children and Family Health and Human Services. In that committee they heard about the problems associated with housing. The bill was drafted in the interim to try to address the needs that they heard in the interim committee. There are three bills that have to do with TANF funds related to low income housing; the other two bills are in the House. This bill needs to be heard and given a fair hearing. The bill provides for a shelter cost allowance for determining income for TANF and for a grant program for homeless prevention and family stabilization within TANF.

Proponents' Testimony:

Judy Smith, WORD Homeward, said her organization is a family advocacy organization that deals with affordable housing issues. Last session they testified about the TANF benefit and that many

families would not be able to meet their basic needs. They argued that the benefit not be cut. The benefit was cut significantly, more significantly than was considered by the Legislature, by the Department in the summer of 2003. As advocates, they participated in that rule-making as they could, and then started coming to the interim committee. She thanked **SEN. SCHMIDT** for her interest and participation in bringing this bill forward. Families of three were getting \$380 to \$390 a month and had gone down from \$500 a month. Many people who have been on public assistance had been using their TANF check for their rent. The TANF program is 50% Tribal members and 50% urban. Cutting the benefit from 40% of poverty to 30% of poverty de-stabilized families and made it difficult for them to find a place to live. She said they lost 3000 children from this program, and they have no idea where they are. She distributed graphs illustrating her point.

EXHIBIT (fcs53a13)

She expressed concern that many families have not been able to stabilize themselves and actually participate in programs. One of the most important things they have learned from the homeless crisis is the thing they need to offer people first is housing. There is an increased demand for services at homeless shelters. In Missoula and Billings, that can be specifically tied to the point where the benefit cut was made. By cutting the benefit this much, the Department accumulated \$23 million and did not put that money back into programs for families. The situation created by this cut was so drastic for families that basic needs must be addressed in the TANF program. If a family uses 75% of their income for rent, they will be eligible for \$50 more in deductible.

{Tape: 3; Side: B}

The bill assists families to stay in housing as they try to move out of poverty.

CHAIRMAN COONEY asked **SEN. WILLIAMS** to chair.

Kim Abbott, WEEL, reiterated that when these cuts happened, they slowly, but steadily, lost track of a lot of their membership. This bill will allow for families to make easier choices and meet their basic needs while they work their way out of poverty.

Terry Kendrick, WORD, read statements from family advocates in homeless shelters.

Eric Schiedenmayer, Montana Catholic Conference, thought the bill provides flexibility and allows for the extension of benefits. Phrases like "temporary economic crisis," "imminent danger of eviction," or "needs of pregnant woman", underscore the necessity of this flexibility. The bill specifies that attention be focused on emergency response systems related to housing. This is in keeping with the temporary assistance designation of the welfare system. Real people in real life situations need help in ways that do not fit the current mold.

Opponents' Testimony:

Hank Hudson, DPHHS, said he does not oppose the policy positions of the bill or the idea that housing is one of the most difficult challenges facing participants. There is a limited amount of TANF block grant money. This particular expenditure was not included in the Governor's budget and would exceed the expenditures that the Department believes are manageable. They worked closely with the sponsor to help craft this bill and design the strategy to address the high cost of housing. If the caseload does not rise, if they do not spend a nickel more on child care, and if they do not raise the TANF benefit one dollar, they will be \$10 million in the hole by the end of FY 09. There is TANF money now because the Department made tough decisions and they have been tough managers. There is a set, fixed amount of federal money to address increasing costs. What they spend now will put them deeper in the hole when they come back in two years. They have to manage a fixed, inadequate amount of money. They will go through the money saved through this benefit cut and more, and these programs will have to be cut in 2008 and 2009 unless large amounts of general fund are appropriated or the caseload drops. Ironically, the money used to put people to work has been cut out of their budget, so he does not anticipate a caseload drop. One approach might be to move this bill through, let it meet up with HB 2 and several other TANF spending bills towards the end of the session, and then decide what the highest priorities are. Housing is one of the highest priorities. When they cut benefits, they had the third highest benefit in the western United States. They do not have the block grant that can support that level of benefits. Currently, the benefit level is about average. It is not enough money for people to live on, but it is only part of a benefit package that includes food stamps, energy assistance, child care, earned income tax credit, and subsidized housing. The key is employment, and he thought that is where TANF money should be invested. The bill has some good policy ideas, but the Department cannot support it because they do not have the TANF money to do it.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. BALES asked if the amount of money going to the individuals decreased, or if the threshold in which they were eligible to receive those benefits decreased. **Mr. Hudson** advised the actual size of the benefit was reduced. For a family of three, that benefit reduction was reduced from about \$505 a month to \$375. Since then, Governor Martz's budget added \$30 a month back to the benefit. There was some decrease in eligibility; the benefit standard is now 30% of poverty. Most of the reduction in caseload was attributable to the cut in the benefit, and not the eligibility. **SEN. BALES** recalled discussion last session about putting money into daycare to make it possible for people to work. **Mr. Hudson** advised the decision was made in the last session to move a significant amount of TANF money into the childcare program. At that time there were waiting lists for childcare. This was described by **SEN. JOHN COBB** as the "death spiral", and he favored paying for childcare. Some of the people who left the caseload went to work. The caseload dropped about 1000 cases, which exceeded their expectations.

SEN. HANSEN asked **Ms. Smith** about the graphs (Exhibit 13) and if they are statewide. **Ms. Smith** said the graph is statewide and shows individuals that have been on the TANF program. As the benefit cut came into play in July and August, there was a steep decline. The caseload continued to decline through the next year. Housing became a large problem and many people left the caseload. Child poverty has gone up. People were required to do thirty hours a week of work activities to even receive this amount of money. **SEN. HANSEN** asked about the strict regulations in TANF that deal with housing. **Ms. Smith** said there has been no change in regulation.

SEN. WEINBERG asked **Ms. Smith** about the budget problems in DPHHS and where to find the money for what SB 267 proposes. **Ms. Smith** advised the TANF block grant was set when there was three times the caseload as now. The money is used for different purposes than it was originally. She contended that TANF money should serve TANF families. The Department has moved that money to areas that fund people that are not TANF families and are at higher income levels than the TANF families. If there are limited funds in the block grant, the answer would be to look at who that block grant was set up to serve and how to best serve them. They think the money in the block grant should be used to stabilize families. Once families are de-stabilized, the kinds of programs advocated by the Department don't make any difference. She argued that childcare should slowly move out of the TANF block grant and be funded in other ways, because it does not go just to TANF families.

SEN. LAIBLE asked **Mr. Hudson** about the TANF caseload monthly average. **Mr. Hudson** clarified that cases are families, and participants are the number of people in those families. **SEN. LAIBLE** said there are 5000 families on the program currently. When the TANF funding was cut, some people were lost. Some went to work, and he wondered what happened to the rest. He wondered what would make them give up the \$375 a month other than employment. If they moved in with their parents, he wondered if they would lose their benefits. **Mr. Hudson** said if they moved in with their parents they might lose benefits depending on their parents' income. People leave for a number of reasons. He said this cut was very painful for the Department and caused a great deal of hardship. They have an emergency assistance program and they visited shelters to educate people about that. The most frequent solution was food banks. Some applied for other benefits, applied for work, got family help or emergency assistance. They cancelled telephone service or moved in with others. Some went back to school or did not pay their bills; some moved into unsafe situations. People on public assistance defy all stereotypes. **SEN. LAIBLE** asked **Mr. Hudson** about visiting the shelters and inquired how many people were homeless and what resources were provided. **Mr. Hudson** said they went there in anticipation of the cut. This bill expands and re-defines emergency assistance specifically for homelessness prevention. After the cut, they did not hear a lot from the shelters. He was sure there were cases where people were made homeless because of the benefit cut. **SEN. LAIBLE** asked about the other benefits and what percentage of the 5000 families also participate in Section 8, the LIEAP program, food stamps, and food banks. **Mr. Hudson** replied that over 90% of the TANF participants receive food stamps and Medicaid. About 57% of the households participate in LIEAP. Another 31% are in public housing and are not eligible for LIEAP; 20% of the caseload does not get public housing or energy assistance. A large number of people they serve receive an income tax credit because they have some earned income. A large number of TANF people work, but the wages and hours are so low, they still qualify for benefits. Telephone assistance is utilized by a smaller number. Childcare is utilized by more than half of TANF participants.

{Tape: 4; Side: A}

SEN. BALES asked **SEN. SCHMIDT** whether this was a committee bill, or a bill she brought on her own. **SEN. SCHMIDT** advised she had an interest in the issue and asked staff to work on the bill.

Closing by Sponsor:

SEN. SCHMIDT said this is a good policy idea. The bill looks for a way for people to stay in housing and work their way out of poverty.

HEARING ON SB 287

{Tape: 4; Side: A; Approx. Time Counter: 1.9}

Opening Statement by Sponsor:

SEN. TRUDI SCHMIDT (D), SD 11, Great Falls, opened the hearing on **SB 287**, Regulate sale of ephedrine, pseudoephedrine; Meth Watch program. **SEN. SCHMIDT** said the bill passed out of committee, was heard on the floor of the Senate, and was referred to Senate Finance and Claims because of the fiscal note. She thanked **SEN. LAIBLE** for his help on this bill. The bill does not affect the sale of gel or liquid pseudoephedrine; the dry capsules will be behind the pharmacy counter. People will have to produce a photo ID, sign a record of sale, and the number of grams is limited to nine or about 300 capsules a month. The Meth Watch program is addressed in the fiscal note; a new fiscal note has been requested because the Meth Watch program will not be as significant. Oklahoma was the first state to implement this law.

Proponents' Testimony:

Mike McGrath, Attorney General, described the legislation as significant. He has been in law enforcement for 29 years and has not seen anything, nor have any of his colleagues seen anything, that approaches the problems created by meth. Meth is an extremely addictive substance and the people who take meth become addicted; that is what creates the social and criminal justice problems. He contended there is nothing more effective they can do to solve the meth problem than pass this bill. Meth cannot be made without pseudoephedrine. If access to pseudoephedrine is restricted, there will be a substantial impact on the amount of methamphetamine that is produced. It can be done for no cost. There are 37 states that are considering this or similar legislation.

SEN. RICK LAIBLE testified that he worked with **SEN. SCHMIDT** on this bill. States that have implemented a substantial control system for pseudoephedrine have found significant reductions in the amount of meth labs. The fiscal note pales in comparison to what meth costs the state for law enforcement, incarceration, and property damage.

Don Hargrove, Montana Addiction Services Providers, stated strong support for the bill. It is based on the Oklahoma model and is a behind the counter approach as opposed to the prescription approach that has been successful in Oklahoma. If this proposal is passed in neighboring states, and not in Montana, Montana would be an island where people come to get their Sudafed. It used to be a drug like methamphetamine was hard to get. This is an easy, proven, inexpensive way to address a problem that costs hundreds of millions to the state.

Craig Campbell, Missouri River Task Force, advised, in 1999, there were eight labs seized, and, in 2002, there were 122. This bill will not cure the problem, but it will greatly decrease it.

Barb Morris, Helena, testified her daughter died of hypothermia due to methamphetamine. The investigation showed she had been using meth for about three weeks before her death. She urged support for the bill.

Joan Miles, Health Officer, Lewis and Clark County, supported the bill on behalf of Missoula, Cascade, Gallatin, Yellowstone, Butte, Silverbow, and Flathead Counties, as well as Lewis and Clark. She concurred with the approach to cut down on labs. If the impacts of the Meth Watch program as presented are a problem, the Justice Department can continue to do that through their agency without the financial impact. Legitimate consumers can still get the products they need by asking for them or buying them in liquid form. She advised that **Joe Mazurek, City of Great Falls**, and **Mayor Gray, Great Falls**, also support this bill.

Jim Smith, Montana Sheriff's and Peace Officers Association, and **Montana Pharmacy Association**, advised the bill imposes additional duties and record-keeping responsibilities on neighborhood pharmacists. Early last fall, pharmacists began discussing this problem and the role they could play in addressing it; they will step up and do their part. He asked for favorable consideration of the bill.

Jim Kembel, Montana Association of Chiefs of Police, went on record in support of the legislation that will provide another tool to assist with the major problem they face today.

Joe Williams, Department of Corrections, stood in strong support of the bill. The methamphetamine problem has wreaked devastation on the Corrections System. A survey was done of the Women's Prison; 41% of incarcerated women listed methamphetamine as their sole drug of choice, and 47% of the population used meth combined with other drugs. Pfizer Pharmaceutical has a patent on a mirror image pill that cannot be used to manufacture methamphetamine.

Sudafed sales are \$100 million a year, but the research costs for the mirror pill cost \$800 million. He encouraged people to contact their congressional delegation and urge them to restrict sales. There are nine manufacturers of ephedrine and pseudoephedrine worldwide.

Eric Stern, Governor's Office, stated support for the bill. In Oklahoma, home meth lab busts decreased from 200 to 29 in the first month. The Governor wanted to thank **SEN. SCHMIDT** for supporting the bill. He said he has been in contact with his counterpart in the state of Oklahoma. There is nothing else going on in the state that could account for the reduction in busts of home labs.

Opponents' Testimony:

Aidan Myhre, CHPA, said the association has been very involved with education, prevention, and supporting law enforcement in their efforts to curtail the use of these products to make illegal meth. She argued that the Meth Watch program is an integral part of that, and CHPA gave a grant to the state of Montana to support it. There are consumers in rural areas that need this product, and there are only 214 pharmacies in Montana. They think they can make sure this product is available to legitimate customers, and still provide the types of controls that reduce the illegal use of this product. She asked that they expand the definition to include responsible retailers. She acknowledged the problem in the state and stressed that prevention and education should be the primary focus. Retailers can be responsible, as shown in the sale of alcohol and tobacco.

{Tape: 4; Side: B}

Brad Griffin, Montana Retail Association, and Montana Food Distributors, said members include K-Mart, Albertson's, WalMart, Target, and most of the state's grocery stores. Retailers can be trusted to sell those products responsibly; Tobacco is kept behind the counter. Their members include a lot of pharmacists. They are busy departments, and this is an unnecessary burden to require this product to be sold behind there. Showing ID and signing for the product are a deterrent to someone on meth who is attempting to buy the drug. Other states have experienced drops in meth labs without requiring it to be put behind pharmacy counters. Retailers want to be part of the solution. They would like to see the bill amended.

Kristi Blazer, Johnson & Johnson Company, said they are the maker of Tylenol Cold. They reluctantly oppose the bill as written. The bill is an important piece of legislation. They requested

that the committee consider expanding the class of retailers and place restrictions on how those products are marketed and displayed. They suggested keeping the product behind the counter in an area not accessible to consumers, or in a locked case so customers are required to ask for assistance. These amendments would protect small businesses without sacrificing the purpose of the bill. Montana is the fourth largest state, but the population is around 900,000; rural Montana would be particularly affected. A similar bill is under consideration in Wyoming, which would allow four different options for retailers to sell these products. Without obtaining immediate relief, some customers will get worse. By allowing only 214 pharmacies to sell these products, the cost will increase. Johnson & Johnson supports the intent and purpose of SB 287, but cannot support the bill as written which restricts the number of retailers who can sell this product.

Paul Beister, Retailer, testified he sells these products behind the counter. He has a small convenience store in Wolf Creek, Montana, and this would be one less thing they would be able to offer their customers. He said he would be happy to comply with the rest of the requirements of the bill.

Scott Sigmon, Regional Director of Governmental Affairs, Schering-Plough Corporation, wanted to go on record that they understand the impact meth is having on communities around the country. They complimented the sponsors of the bill. They believe there would be an access issue for the vast majority of people who buy these products for legitimate health care reasons. There are single ingredient products and combination products, which come in a variety of formulations. He shared some information with the committee that showed extraction levels with regard to single-ingredient components versus combination components.

EXHIBIT (fcs53a14)

By placing everything behind the pharmacy counter, access by legitimate consumers is restricted for combination products. They favored package limitations, ground limitations, electronic surveillance, and wholesaler registration. Idaho and Washington do not put combination products behind the counter. The same science that applies to the gel and liquid products applies to combination products. They stand ready to work with the sponsor of the bill and hope the committee would be willing to amend this legislation.

Informational Testimony:

Jackie Jandt, DPHHS, advised they administer the Meth Watch program.

Jean Branscum, Secretary of State's Office, advised she previously served as Health Policy Advisor for Governor Martz and helped draft the bill. She applauded Governor Brian Schweitzer and Attorney General McGrath for their ongoing leadership to address this issue. Retailers will still have an array of products that contain pseudoephedrine. The state of Iowa passed a bill that put controls only on sole-ingredient pseudoephedrine products. Today they have more meth labs than ever; 70% of the meth labs they busted used multi-ingredient products.

Questions from Committee Members and Responses:

SEN. LAIBLE asked **SEN. SCHMIDT** why she did not sign the fiscal note. **SEN. SCHMIDT** indicated she does not usually sign any fiscal note, and the fiscal note is in the process of being revised. **SEN. LAIBLE** asked about the fiscal impact of the Meth Watch program in other states. **Ms. Jandt** advised the cost to the state of Kansas was about \$33,000. The department requested that some of these costs be put under the federal block grant for substance abuse prevention. The most expensive part of the project are stickers for the shelves. **SEN. LAIBLE** asked **Mr. Stern** about other states and what would happen if every state in the country implemented a program like this. He asked if the sales were significantly impacted in the manufacture of these products, if pressure within the marketplace would force manufacturers to come up with a mirror product that cannot be converted into meth. **Mr. Stern** said, he believes that. All these medications are available in gel cap form; there is already an alternative. People in rural communities will always be able to buy the medication they need; they won't be able to get it in tablet form, but will be able to get it in gel cap form. The pharmaceutical industry is currently developing an alternative to pseudoephedrine. **SEN. LAIBLE** asked **Mr. Sigmon** if gel caps are just as effective as the non-gel cap formulations. **Mr. Sigmon** said they do not make a gel tab or liquid product. If gel caps are zero in terms of ability to extract, and if solid combination tabs are 5% to 7%, that is pretty close.

{Tape: 5; Side: A}

SEN. LAIBLE asked if gel caps and liquids are just as effective, why manufacturers would not process pseudoephedrine products in nothing but that form. **Mr. Sigmon** advised they make sustained-release products for twelve or twenty-four hour duration. He did not know whether or not a gel tab or liquid formulation could have that same effect.

SEN. HANSEN thanked **SEN. SCHMIDT** for bringing this bill forward. He asked how purchases will be tracked. **SEN. SCHMIDT** advised a person can buy nine grams every thirty days; nine grams can be 300 tablets. **SEN. HANSEN** was concerned about tracking if he purchased products for himself, his mother, and his grandmother. **SEN. SCHMIDT** advised he would produce a driver's license, or some form of picture ID, and would sign a record of sale that would include the date of the transaction and the name of the person purchasing the product. **Mr. Smith** clarified **SEN. HANSEN** would be the purchaser and his name would be recorded. The pharmacies will have to work out a methodology for tracking. That is part of the additional, and somewhat burdensome, duties for pharmacies. **CHAIRMAN COONEY** asked if there is any way of dealing with the situation described by **SEN. HANSEN**. **Mr. Smith** did not know other than by amending the bill. That is part of the stringent requirements that are part and parcel of this bill.

SEN. BALES asked **SEN. SCHMIDT** about making these products available in other retail stores behind the counter or locked up. **SEN. SCHMIDT** maintained it has not been proven to work in other states. She wants to make the products as inaccessible as possible. She heard from people in rural areas who said this is not an inconvenience for them. This has worked in other states and can work in Montana. People will accept the inconveniences, if there are any.

SEN. LIND asked **Mr. Sigmon** if the information he provided was Montana data, and **Mr. Sigmon** answered that it is national data. **SEN. LIND** asked how many small stores in Montana have electronic surveillance, and **Mr. Sigmon** said very few. **SEN. LIND** said **Mr. Sigmon** presented his data as science. He asked about the reference for the statement that these measures greatly deter theft and illicit purchase of PSE products. He said the system is not working as he sees it. **Mr. Sigmon** said the statement refers to deterring theft in facilities with electronic monitoring systems. They believe that electronic tagging deters theft. Sales orders are carefully monitored. They do not believe that combination products are the problem. They see no evidence that combination products show up in meth labs. The DEA finds that 80% are single ingredient products. They do not want people to steal these products. People may use these products to cook methamphetamine, but they will be dissatisfied.

SEN. BARKUS indicated he went online to drugstore.com where he can buy Sudafed with no restrictions. He thinks they are at they dyke and trying to put a finger in the leak. He asked if this should be a FDA problem. **SEN. SCHMIDT** agreed, it definitely should be. States are doing this individually, because it has not been done at the federal level. By doing it state by state,

states have been restricting this access because it has shown a significant change in production of these clandestine labs. She thinks the FDA is in the process of addressing this.

CHAIRMAN COONEY asked **Attorney General McGrath** about the suggested amendments and whether or not the FDA is expected to do anything in the future. **Mr. McGrath** hoped they would resist the amendments. There are plenty of products available that people can purchase in rural communities. There are other states who have made those exceptions and may be addressing that in the future. 300 tablets is a significant amount of quantity of any cold remedy product. In terms of the combination products, officers engaged in drug enforcement in Montana find numerous combination products, perhaps as high as 50%. He found it interesting that the Meth Watch program was in the same bill. If they pass Section 1 and 2, they do not need to put a lot of money into the Meth Watch program. This will not solve all the problems, but even the super labs require pseudoephedrine. When they bust super labs in California, they are finding mounds of blister packs of Sudafed or related products. It is not like putting a finger in the dike; they can make a huge impact on this problem by passing this bill.

SEN. BOB KEENAN referred to the title of the bill and wondered, why not ban ephedrine and pseudoephedrine from the state of Montana. **Mr. McGrath** did not think they can do that under the commerce clause of the Constitution. He said he will meet with Sen. Conrad Burns and Sen. Max Baucus and will ask them about making ephedrine and pseudoephedrine a controlled substance. The answer is the pharmaceutical lobbies are too tough. They can make a difference in Montana, and that is what he thinks they should do.

Closing by Sponsor:

SEN. SCHMIDT read a letter from a chemical dependency counselor, which described the meth problem. The issue is restricting access, even though some people might be inconvenienced. She contended that people don't seem to mind and want to restrict the access.

ADJOURNMENT

Adjournment: 12:25 P.M.

SEN. MIKE COONEY, Chairman

PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT ([fcs53aad0.TIF](#))